

Message Text

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ACTION L-03

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C O R R E C T E D C O P Y (REFERENCE ADDED)

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E.O. 11652: N/A
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SUBJECT: MOST FAVORED NATION CLAUSE: INTERNATIONAL LAW
COMMISSION GENEVA

REF: GENEVA 8916

1. PURSUANT TO REFTTEL, VALLAT (UK) HAS NOW PROPOSED TO
ADD FOLLOWING ARTICLE:

- ARTICLE 23 BIS
- THE MOST-FAVORED NATION CLAUSE IN RELATION TO
- TREATMENT EXTENDED BY ONE MEMBER OF A CUSTOMS
- UNION TO ANOTHER MEMBER

A BENEFICIARY STATE OTHER THAN A MEMBER OF A CUSTOMS
UNION IS NOT ENTITLED UNDER A MOST-FAVORED-NATION
CLAUSE TO TREATMENT EXTENDED BY THE GRANTING STATE
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AS A MEMBER OF THE CUSTOMS UNION TO A THIRD STATE
WHICH IS ALSO A MEMBER.

2. REUTER (FRANCE) HAS ALSO PROPOSED FOLLOWING
ADDITIONS:

- ARTICLE A

- THE MOST-FAVORED-NATION CLAUSE AND TREATMENT
- EXTENDED IN ACCORDANCE WITH THE CHARTER OF THE
- ECONOMIC RIGHTS AND DUTIES OF STATES

A BENEFICIARY STATE IS NOT ENTITLED UNDER A MOST-FAVORED-NATION CLAUSE TO THE TREATMENT EXTENDED BY A GRANTING STATE UNDER AN AGREEMENT IN CONFORMITY WITH THE CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES IF THE GRANT OF THE BENEFIT OF THE MOST-FAVORED-NATION CLAUSE IS CONTRARY TO THE OBJECT AND PURPOSE OF SUCH AN AGREEMENT AND:

- (I) IF THE AGREEMENT IS OPEN TO ALL MEMBER
- STATES OF THE INTERNATIONAL COMMUNITY AND IS
- CONCLUDED UNDER THE AUSPICES OF THE UNITED
- NATIONS OR AN ORGANIZATION OF A UNIVERSAL
- CHARACTER BELONGING TO THE UNITED NATIONS
- FAMILY; OR
- (II) IF THE CONFORMITY OF THE AGREEMENT WITH
- THE PRINCIPLES OF THE CHARTER OF ECONOMIC
- RIGHTS AND DUTIES OF STATES IS SUBJECT TO
- REVIEW BY AN ORGAN OF THE UNITED NATIONS OR
- AN ORGANIZATION OF A UNIVERSAL CHARACTER
- BELONGING TO THE UNITED NATIONS FAMILY.

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3. ARTICLE 21 TER

- THE MOST-FAVORED-NATION CLAUSE AND TREATMENT
- EXTENDED UNDER COMMODITY AGREEMENT

A BENEFICIARY STATE IS NOT ENTITLED UNDER A MOST-FAVORED-NATION CLAUSE TO THE TREATMENT EXTENDED BY A GRANTING STATE UNDER AN AGREEMENT OPEN TO ALL MEMBER STATES OF THE INTERNATIONAL COMMUNITY, CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS OR AN ORGANIZATION OF A UNIVERSAL CHARACTER BELONGING TO THE UNITED NATIONS FAMILY AND THE OBJECT OF WHICH IS THE ECONOMIC REGIME OF A COMMODITY, IF THE GRANT OF THE BENEFIT OF THE MOST-FAVORED-NATION CLAUSE IS CONTRARY TO THE OBJECT AND PURPOSE OF SUCH AN AGREEMENT.

4. USHAKOV (USSR) HEAVILY ATTACKED VALLAT AND REUTER DRAFTS, ON GROUNDS OF INTRODUCING UNDUE DISCRIMINATION AND DEROGATIONS FROM MFN WHICH, IF TO BE ACHIEVED, SHOULD BE BY SPECIAL CLAUSES IN MFN AGREEMENTS; AS NOT

ASSISTING LDCS; AND AS BEING OBSCURE. TSURUOKA (JAPAN)
GAVE HIM SUBSTANTIAL SUPPORT. CALLE Y CALLE (PERU)
SUPPORTED VALLAT APPROACH AS NECESSARY RECOGNITION OF
ACTUAL IMPORTANCE OF CUSTOMS UNIONS, AND DREW
ATTENTION TO WHAT HE CONSTRUED AS SUPPORTING GATT
COMMENTS, SETTE CAMARA (BRAZIL) AND SCHWEBEL (AS WELL
AS USHKOV) ALL POINTED OUT THAT REUTER'S DRAFT GIVES
CERDS A STATUS IT DOES NOT AND SHOULD NOT HAVE IN INTER-
NATIONAL LAW.

5. IF DEPARTMENT HAS COMMENTS ON ABOVE PROPOSALS,
ESPECIALLY VALLAT'S, THEIR IMMEDIATE TRANSMISSION
WOULD BE APPRECIATED. VANDEN HEUVEL

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